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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES, Chairman
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AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUN 17 2010

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JOINT NOTICE AND APPLICATION OF QWEST CORPORATION, QWEST COMMUNICATIONS COMPANY, LLC, QWEST LD CORP., EMBARQ COMMUNICATIONS, INC. D/B/A/ CENTURY LINK COMMUNICATIONS, EMBARQ PAYPHONE SERVICES, INC. D/B/A/ CENTURYLINK, AND CENTURYTEL SOLUTIONS, LLC FOR APPROVAL OF THE PROPOSED MERGER OF THEIR PARENT CORPORATIONS QWEST COMMUNICATIONS INTERNATIONAL INC. AND CENTURYTEL, INC.

DOCKET NO. T-01051B-10-0194
DOCKET NO. T-02811B-10-0194
DOCKET NO. T-04190A-10-0194
DOCKET NO. T-20443A-10-0194
DOCKET NO. T-03555A-10-0194
DOCKET NO. T-03902A-10-0194

**JOINT APPLICANT'S
PROPOSED:**

- (1) Procedural Schedule;
- (2) Form of Public Notice; and
- (3) Protective Order

On May 13, 2010, the Arizona telephone operating subsidiaries of Qwest Communications International, Inc., Qwest Corporation, Qwest Communications Company LLC, and Qwest LD Corp., (collectively "Qwest") and the Arizona Telephone operating subsidiaries of CenturyTel, Inc., Embarq Communications, Inc., d/b/a CenturyLink Communications, Embarq Payphone Services, Inc., d/b/a CenturyLink, and CenturyTel Solutions LLC, (collectively "CenturyLink") submitted for Arizona Corporation Commission ("Commission") approval, a Joint Notice and Application for Expedited Approval of Proposed Merger ("Joint Application"). On May 28, 2010, Qwest and CenturyLink ("Joint Applicants") filed a Request for a Procedural Scheduling

1 Conference. On June 9, 2010, the Administrative Law Judge ("ALJ") issued a
2 Procedural Order scheduling a Procedural Conference for June 22, 2010.

3 In order to assist the ALJ and the Parties at the June 22, 2010, Procedural
4 Conference, the Joint Applicants submit the following:

5 **Proposed Procedural Schedule**

6 The Joint Application requests that the Commission complete its review and issue
7 its final Order approving the proposed transaction set forth in the Joint Application by
8 December 31, 2010.¹ Accordingly, the Joint Applicants propose the following procedural
9 schedule to meet that objective:

10	June 22, 2010	Procedural Conference
11	June 25, 2010	Publication/Mailing Public Notice
12	July 9, 2010	File Certification of Publication/Mailing Public Notice
13	July 9, 2010	Intervention Deadline
14	August 10, 2010	Staff and Intervenor Direct Testimony
15	September 9, 2010	Pre-Hearing Conference
16	September 10, 2010	Joint Applicants Rebuttal Testimony
17	September 15, 2010	Hearing ²
18	October 15, 2010	Closing Briefs

19 **Proposed Form of Public Notice**

20 Attached as Attachment 1 is a proposed form of public notice modeled after the
21 public notice ordered by the Commission in the recent Frontier/Verizon merger docket.³
22 The Joint Applicants will publish the notice in the statewide edition of the *Arizona*
23

24
25 ¹ Joint Application at 20, lines 6-8.

² Joint Applicants will provide expedited one (1) day hearing transcripts.

26 ³ T-01846B-09-0274, T-03289A-09-0274, T-03198A-09-0274, T-20679A-09-0274, T-20680A-09-0274, T-20681A-09-0274

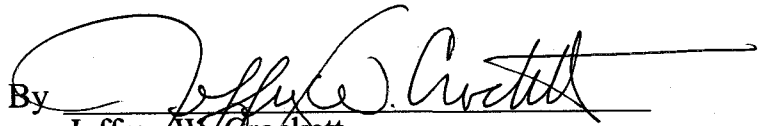
1 *Republic* and mail notice to all customers in the state, as well as all carriers with
2 Interconnection Agreements.

3 **Proposed Protective Order**

4 Attached at Attachment 2 is a proposed Protective Order to address issues relating
5 to the exchange of confidential and proprietary information in discovery. The Protective
6 Order is based on protective orders issued by the: (1) Commission on February 3, 2009,
7 in Docket Nos. RT-0000H-97-0137 and T-0000D-00-0672; and (2) Washington State
8 Utilities and Transportation Commission on June 2, 2010, in Docket No. UT-100820 in
9 connection with the Joint Application of Qwest and CenturyTel, Inc. pending in
10 Washington State.

11 RESPECTFULLY SUBMITTED this 17th day of June, 2010.

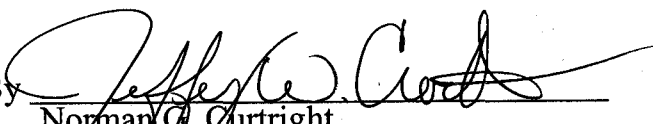
12 SNELL & WILMER L.L.P.

13
14 By 
15 Jeffrey W. Crockett
16 Bradley S. Carroll
17 One Arizona Center
400 E. Van Buren
Phoenix, AZ 85004-2202

18 and

19 Kevin K. Zarling
20 (*pro hac vice* application pending)
21 Senior Counsel, CenturyLink
400 W. 15th Street, Suite 315
Austin, Texas 78701

22 Attorneys for CenturyLink
23
24
25
26

1 By 
2 for Norman G. Curtright
3 Associate General Counsel, Qwest
4 20 E. Thomas Road, 16th Floor
5 Phoenix, Arizona 85012
6 Attorney for Qwest

7 ORIGINAL and 13 copies filed
8 this 17th day of June, 2010, to:

9 Docket Control
10 Arizona Corporation Commission
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 COPY of the foregoing hand-delivered
14 this 17th day of June, 2010, to:

15 Belinda Martin, Administrative Law Judge
16 Arizona Corporation Commission
17 1200 West Washington Street
18 Phoenix, Arizona 85007

19 Maureen Scott, Staff Attorney
20 Robin Mitchell, Staff Attorney
21 Legal Department
22 Arizona Corporation Commission
23 1200 West Washington Street
24 Phoenix, Arizona 85007

25 Steve Olea, Director
26 Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

1 COPY of the foregoing sent via U.S Mail and
2 E-Mail this 17th day of June, 2010, to:

3 Michael W. Patten
4 Roshka DeWulf & Patten, PLC
5 One Arizona Center
6 400 East Van Buren, Suite 800
7 Phoenix, Arizona 85004
8 Attorneys for Cox Arizona Telcom, LLC

9 Daniel W. Pozefsky, Chief Counsel
10 Residential Utility Consumer Office
11 1110 West Washington Street, Suite 220
12 Phoenix, Arizona 85007
13 Attorney for RUCO

14 Joan S. Burke
15 Law office of Joan S. Burke
16 1650 North First Avenue
17 Phoenix, Arizona 85003
18 Attorney for Integra Telecom and tw Telecom Arizona llc

19 Nicholas J. Enoch
20 Jarrett J. Haskovec
21 Lubin & Enoch, P.C.
22 349 North Fourth Avenue
23 Phoenix, Arizona 85003
24 Attorneys for Communications Workers of American, AFL-CIO, CLC

25
26


11623551.2

ATTACHMENT 1

PROPOSED FORM OF NOTICE

**PUBLIC NOTICE OF THE HEARING ON THE JOINT
APPLICATION OF QWEST CORPORATION, QWEST
COMMUNICATIONS COMPANY, LLC, QWEST LD CORP., DBA
QWEST LONG DISTANCE, EMBARQ COMMUNICATIONS, INC.,
EMBARQ PAYPHONE SERVICES, INC., AND CENTURYTEL
SOLUTIONS, LLC, FOR APPROVAL OF THE PROPOSED
MERGER OF THEIR PARENT CORPORATIONS QWEST
COMMUNICATIONS INTERNATIONAL INC. AND CENTURYTEL,
INC. (DOCKET NOS. T-01051B-10-0194, T-02811B-10-0194, T-
04190A-10-0194, T-20443A-10-0194, T-03555A-10-0194, T-03902A-10-
0194)**

On May 13, 2010, Qwest Corporation, Qwest Communications Company, LLC, Qwest LD Corp., dba Qwest Long Distance, Embarq Communications, Inc., Embarq Payphone Services, Inc., and CenturyTel Solutions, LLC, ("Applicants") filed with the Arizona Corporation Commission ("Commission") a joint application for approval of the merger of their parent corporations Qwest Communications International Inc. and CenturyTel, Inc. The Commission's Utilities Division ("Staff") has not yet made a recommendation regarding the Applicants' application, and the Commission is not bound by the proposals made by the Applicants, Staff, or any intervenors. The Commission will issue a decision regarding the Applicants' application following consideration of testimony and evidence presented at an evidentiary hearing.

How You Can View or Obtain a Copy of the Application

Copies of the application are available at the Applicants' offices, Qwest Corporation, 20 East Thomas Road – 16th Floor, Phoenix, Arizona 85012, and the Commission's offices at 1200 West Washington, Phoenix, Arizona 85007, for public inspection during regular business hours and on the internet via the Commission website (www.azcc.gov) using the e-docket function.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on this matter beginning **September 15, 2010, at 10:00 AM**, or as soon thereafter as is practical, at the Commission's offices, Hearing Room 1, 1200 West Washington Street, Phoenix, Arizona 85007. Public comments will be taken on the first day of the hearing. Written public comments may be submitted via email (visit http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf for instructions), or by mailing a letter referencing Docket Nos. T-01051B-10-0194, T-02811B-10-0194, T-04190A-10-0194, T-20443A-10-0194, T-03555A-10-0194, and T-03902A-10-0194 to: Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, Arizona 85007. If you require assistance, you may contact the Consumer Services Section at (800) 222-7000.

About Intervention

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. **If you would like to intervene, you must file a written motion to intervene with the Commission no later than July, 9, 2010.** You must send copies of the motion to the Applicants or their counsel and to all parties of record in the case. Your motion to intervene must contain the following:

1. Your name, address, and telephone number, and the name, address, and telephone number of any party upon whom documents are to be served in your place, if desired;
2. A short statement of your interest in the proceeding (e.g., a customer of the Applicants, a shareholder of the Applicants, etc.); and

3. A statement certifying that a copy of your motion to intervene has been mailed to the Applicants or their counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that **all motions to intervene must be filed on or before July 9, 2010.** If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Arizona Corporation Commission's webpage at <http://www.azcc.gov/divisions/utility/forms.asp>. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. **However, failure to intervene will not preclude any customer from appearing at the hearing and making a statement on such customer's own behalf.**

ADA/Equal Access Information

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator Shaylin Bernal, E-mail sabernal@azcc.gov, voice phone number (602) 542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

11640686.1

ATTACHMENT 2

PROPOSED PROTECTIVE ORDER

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 **COMMISSIONERS**

4 KRISTIN K. MAYES, Chairman
5 GARY PIERCE
6 PAUL NEWMAN
7 SANDRA D. KENNEDY
8 BOB STUMP

9 JOINT NOTICE AND APPLICATION OF QWEST
10 CORPORATION, QWEST COMMUNICATIONS
11 COMPANY, LLC, QWEST LD CORP., EMBARQ
12 COMMUNICATIONS, INC. D/B/A/ CENTURY
13 LINK COMMUNICATIONS, EMBARQ
14 PAYPHONE SERVICES, INC. D/B/A/
15 CENTURYLINK, AND CENTURYTEL
16 SOLUTIONS, LLC FOR APPROVAL OF THE
17 PROPOSED MERGER OF THEIR PARENT
18 CORPORATIONS QWEST COMMUNICATIONS
19 INTERNATIONAL INC. AND CENTURYTEL,
20 INC.

DOCKET NO. T-01051B-10-0194
DOCKET NO. T-02811B-10-0194
DOCKET NO. T-04190A-10-0194
DOCKET NO. T-20443A-10-0194
DOCKET NO. T-03555A-10-0194
DOCKET NO. T-03902A-10-0194

21 **PROTECTIVE ORDER**
22 *(With "Highly Confidential"*
23 *Provisions)*

24 On May 13, 2010, the Arizona telephone operating subsidiaries of Qwest
25 Communications International, Inc., Qwest Corporation, Qwest Communications
26 Company LLC, and Qwest LD Corp., and the Arizona Telephone operating subsidiaries
of CenturyTel, Inc., Embarq Communications, Inc., d/b/a CenturyLink Communications,
Embarq Payphone Services, Inc., d/b/a CenturyLink, and CenturyTel Solutions LLC,
(collectively the "Joint Applicants") submitted for Arizona Corporation Commission
("Commission") approval, a Joint Notice and Application for Expedited Approval of
Proposed Merger. Other parties to this proceeding include the Commission's Utilities
Division Staff ("Staff"), the Residential Utility Consumer Office ("RUCO"), and others
granted intervention (collectively, "Intervenors"). The Joint Applicants, Staff, RUCO
and/or Intervenors ("Parties" or a "Party," as applicable) may require access to certain
documents, data, studies and other materials ("Receiving Party" or "Receiving Parties" as

1 applicable), some of which may be considered by a Party ("Disclosing Party" or
2 Disclosing Parties" as applicable) to be of a proprietary, confidential or legally protected
3 nature ("Confidential Information"). Accordingly, the Commission enters this Protective
4 Order to govern the discovery and use of Confidential Information by the Parties in this
5 proceeding.

6 1. (a) **Confidential Information.** All documents, data, studies and other
7 materials furnished pursuant to any requests for information, subpoenas or other modes
8 of discovery (formal or informal), and including depositions, and other requests for
9 information, that are claimed to be Confidential Information, shall be so marked by the
10 Disclosing Party by stamping the same with a "Confidential Information" designation. In
11 addition, all notes or other materials that refer to, derive from, or otherwise contain parts
12 of the Confidential Information will be marked by the Receiving Party as Confidential
13 Information. Except for "Highly Confidential Information," described in Section 3 of
14 this Protective Order, all Confidential Information shall be provided on yellow paper.
15 Access to and review of Confidential Information shall be strictly controlled by the terms
16 of this Protective Order.

17 The Disclosing Party shall memorialize in writing any Confidential Information
18 that it verbally discloses to a Receiving Party within five (5) business days of its verbal
19 disclosure, and the writing shall be marked by the Disclosing Party with the appropriate
20 designation.

21 Each Disclosing Party agrees that it will carefully consider the basis upon which
22 any information is claimed to be trade secret, proprietary, confidential, or otherwise
23 legally protected. A Disclosing Party shall designate as Confidential Information only
24 such information as it may claim in good faith to be legally protected. Where only a part
25 of a document, or only a part of an informational submittal, may reasonably be
26 considered to be trade secret, proprietary, confidential, or otherwise legally protected, the

1 Disclosing Party shall designate only that part of such information submittal as
2 Confidential Information under this Protective Order. Information that is publicly
3 available from any other source shall not be claimed as Confidential Information under
4 this Protective Order. Any Party shall have the right to challenge at any time the
5 Disclosing Party's designation of any document or portion thereof as Confidential
6 Information in accordance with the procedures described in Section 5 of this Protective
7 Order.

8 (b) **Use of Confidential Information - Proceedings.** All persons who
9 may be entitled to review, or who are afforded access to any Confidential Information by
10 reason of this Protective Order, shall neither use nor disclose the Confidential
11 Information for purposes of business or competition, or any purpose other than the
12 purpose of preparation for and conduct of proceedings in the above-captioned dockets
13 and all subsequent appeals, and shall keep the Confidential Information secure as
14 confidential or proprietary information and in accordance with the purposes, intent and
15 requirements of this Protective Order.

16 This Protective Order does not prohibit a Receiving Party from using and
17 disclosing Confidential Information provided by a Disclosing Party in reports or
18 documents that aggregate all information gathered from the Parties to this docket,
19 provided that a Disclosing Party's individual disclosure is indiscernible from the
20 aggregate report. In addition, where Confidential Information provided by a Disclosing
21 Party is confidential solely as a result of either disclosing individual customer
22 information or disclosing specific prices, this Protective Order shall not prohibit a
23 Receiving Party from the public disclosure of such information in an aggregated form
24 where no individual customer or specific individual price can be ascertained.

25 (c) **Persons Entitled to Review.** Each Party that receives Confidential
26 Information pursuant to this Protective Order must limit access to such Confidential

1 Information to (1) attorneys employed or retained by the Party in these proceedings and
2 the attorneys' staff; (2) experts, consultants and advisors who need access to the material
3 to assist the Party in these proceedings; (3) only those employees of the Party who are
4 directly involved in these proceedings, provided that counsel for the Party represents that
5 no such employee is engaged in the sale or marketing of that Party's products or services.
6 In addition, access to Confidential Information may be provided to Commissioners,
7 Commission Administrative Law Judges, Commission advisory staff members, and
8 employees of the Commission, to whom disclosure is necessary. Where a Receiving
9 Party acts as an advocate in a trial or adversarial role, disclosure of both Confidential
10 Information and Highly Confidential Information to such Receiving Party and consultants
11 employed by the Receiving Party shall be under the same terms and conditions as
12 described in this Protective Order.

13 **(d) Nondisclosure Agreement.** Any Party, person, or entity that
14 receives Confidential Information pursuant to this Protective Order shall not disclose
15 such Confidential Information to any person, except persons who are described in
16 subsection 1(c) above and who have signed a Nondisclosure Agreement in the form
17 which is attached hereto and incorporated herein as Exhibit "A." Court reporters shall
18 also be required to sign an Exhibit "A" and comply with terms of this Protective Order.
19 Commissioners, Administrative Law Judges, and their respective staff members are not
20 required to sign an Exhibit "A."

21 The Nondisclosure Agreement (Exhibit "A") shall require the person(s) to whom
22 disclosure is to be made to read a copy of this Protective Order and to certify in writing
23 that they have reviewed the same and have consented to be bound by its terms. The
24 agreement shall contain the signatory's full name, employer, job title and job description,
25 business address and the name of the Party with whom the signatory is associated. Such
26 agreement shall be delivered to counsel for the Disclosing Party before disclosure is

1 made, and if no objection thereto is registered to the Commission with in three (3)
2 business days, then disclosure shall follow. An attorney who makes Confidential
3 Information available to any person listed in subsection 1(c) above shall be responsible
4 for having each person execute an original Exhibit "A" and a copy of all such signed
5 Exhibit "A" forms shall be circulated to all other counsel of record promptly after
6 execution.

7 **2. (a) Notes.** Limited notes regarding Confidential Information may be
8 taken by counsel and experts for the express purpose of preparing pleadings, cross-
9 examinations, briefs, motions and argument in connection with this proceeding, or in the
10 case of persons designated in subsection 1(c) of this Protective Order, to prepare for
11 participation in this proceeding. Such notes shall then be treated as Confidential
12 Information for purposes of this Protective Order, and shall be destroyed after the final
13 settlement or conclusion of these proceedings in accordance with subsection 2(b) below.

14 **(b) Return.** All notes, to the extent they contain Confidential
15 Information shall be destroyed after the final settlement or conclusion of these
16 proceedings. The Party destroying such Confidential Information shall advise the
17 Disclosing Party of that fact within a reasonable time from the date of destruction.

18 **3. Highly Confidential Information.**

19 **(a)** Parties involved in this proceeding may include competitors, or
20 potential competitors of the Joint Applicants. Moreover, information relevant to the
21 resolution of this matter is expected to include sensitive competitive information.
22 Disclosing Parties to this proceeding may receive discovery requests that call for the
23 disclosure of highly confidential documents, data, studies or other materials or
24 information ("Highly Confidential Information"), the disclosure of which imposes a
25 highly significant risk of competitive harm to the Disclosing Party or third parties. Thus,
26 Disclosing Parties may designate documents or information they consider to be Highly

1 Confidential Information and such documents or information will be disclosed only in
2 accordance with the provisions of this Section 3.

3 (b) Disclosing Parties must carefully scrutinize responsive documents
4 and information and strictly limit the amount of information they designate as Highly
5 Confidential Information to only information that truly might impose a serious business
6 risk if disseminated without the heightened protections provided in this Section 3. The
7 first page and individual pages of a document determined in good faith to include Highly
8 Confidential Information must be marked by a stamp that reads: "HIGHLY
9 CONFIDENTIAL — USE RESTRICTED PER PROTECTIVE ORDER IN DOCKET
10 NOS. T-01051B-10-0194, ET. AL."

11 (c) Placing a "Highly Confidential" stamp on the first page of a
12 document indicates only that one or more pages contains Highly Confidential
13 Information and will not serve to protect the entire contents of a multi-page document.
14 Each page that contains Highly Confidential Information must be marked separately to
15 indicate where Highly Confidential Information is redacted. The unredacted versions of
16 each page containing Highly Confidential Information and provided under seal also must
17 be stamped "Highly Confidential" and submitted on pink paper with references (*i.e.*,
18 highlighting or other markings) to show where Highly Confidential Information is
19 redacted in the original document.

20 (d) Intervenor Parties who seek access to or disclosure of Highly
21 Confidential Information must designate one outside counsel and not more than one
22 outside consultant, legal or otherwise, to receive and review materials marked "HIGHLY
23 CONFIDENTIAL — USE RESTRICTED PER PROTECTIVE ORDER IN DOCKET
24 NOS. T-01051B-10-0194, ET. AL." For each person for whom access to Highly
25 Confidential Information is sought, the Receiving Party must submit to the Disclosing
26 Party that designated the material as Highly Confidential Information and file with the

1 Commission, a Highly Confidential Information Agreement, in the form attached as
2 Exhibit "B" to this Protective Order, certifying that the person requesting access to the
3 Highly Confidential Information:

- 4 (1) Is not now involved, and will not for a period of two years
5 involve themselves in, competitive decision making with
6 respect to which the documents or information may be
7 relevant, by or on behalf of any company or business
8 organization that competes, or potentially competes, with the
9 Disclosing Party or business organization from whom they
10 seek disclosure of Highly Confidential Information with
11 respect to the pricing, marketing, and sales of
12 telecommunications services in the state of Arizona; and
- 13 (2) Has read and understands, and agrees to be bound by, the
14 terms of the Protective Order in this proceeding, including
15 this Section of the Protective Order.

16 (e) The provisions and restrictions in subsection 3(d) above also apply
17 to Staff and RUCO and any experts or consultants they retain to review the Highly
18 Confidential Information. However, one (1) copy of Highly Confidential Information
19 may be given to Staff and RUCO's designated in-house attorney and a designated Staff
20 and RUCO in-house analyst.

21 (f) Any Disclosing Party may object in writing to the designation of any
22 individual counsel or consultant as a person who may review Highly Confidential
23 Information. Any such objection must demonstrate good cause, supported by affidavit, to
24 exclude the challenged counsel or consultant from the review of the Highly Confidential
25 Information. Written response to any objection must be returned within five (5) days
26 after receipt of the objection. If, after receiving a written response to a Party's objection,
the objecting Party still objects to disclosure of the Highly Confidential Information to
the challenged individual, the Administrative Law Judge shall determine whether the
Highly Confidential Information must be disclosed to the challenged individual.

1 (g) Intervenor outside counsel designated in the manner described in
2 subsection 3(d) above, may provide one (1) copy of the Highly Confidential Information
3 to their outside consultants or experts who have been designated to receive Highly
4 Confidential Information in the manner described in subsection 3(d) above. Designated
5 outside counsel and consultants (including Staff and RUCO pursuant to subsection 3(e)
6 above) will each maintain the Highly Confidential Information and any notes reflecting
7 their contents in a secure location to which only designated counsel and consultants have
8 access. No additional copies will be made, except for use as part of prefiled testimonies
9 or exhibits or during the hearing, and then such copies shall also be subject to the
10 provisions of this Protective Order.

11 (h) Staff of designated outside counsel and staff of designated outside
12 consultants who are authorized to review Highly Confidential Information (including
13 Staff and RUCO pursuant to subsection 3(e) above) may have access to Highly
14 Confidential Information for purposes of processing the case, including but not limited to
15 receiving and organizing discovery, and preparing prefiled testimony, hearing exhibits,
16 and briefs. Outside counsel and consultants are responsible for appropriate supervision
17 of their staff to ensure the protection of all Highly Confidential Information consistent
18 with the terms of this Protective Order.

19 (i) Any testimony or exhibits prepared that include or reflect Highly
20 Confidential Information must be maintained in the secure location until filed with the
21 Commission or removed to the hearing room for production under seal and under
22 circumstances that will ensure continued protection from disclosure to persons not
23 entitled to review Highly Confidential Information. Counsel will provide prior notice (at
24 least one business day) of any intention to introduce Highly Confidential Information at
25 hearing, or refer to such Highly Confidential Information in cross-examination of a
26 witness. The Administrative Law Judge will determine the process for including such

1 Highly Confidential Information following consultation with the Parties.

2 (j) The designation of any document or information as Highly
3 Confidential Information may be challenged by motion and the classification of the
4 document or information as Highly Confidential Information will be considered in
5 chambers by the Administrative Law Judge. The Party contending that a document or
6 information is Highly Confidential Information bears the burden of proving that such
7 designation is necessary.

8 4. **Objections to Admissibility.** The furnishing of any document, data, study
9 or other materials pursuant to this Protective Order shall in no way limit the right of the
10 Disclosing Party to object to its relevance or admissibility in proceedings before the
11 Commission.

12 5. **Challenge to Confidentiality.** This Protective Order establishes a
13 procedure for the expeditious handling of information that a Party claims is Confidential
14 Information or Highly Confidential Information. It shall not be construed as an
15 agreement or ruling on the confidentiality of any document. Any Party may challenge
16 the characterization of any information, document, data or study claimed by the
17 Disclosing Party to be confidential in the following manner:

18 (a) A Party seeking to challenge the confidentiality of any materials
19 pursuant to this Protective Order shall first contact counsel for the
20 Disclosing Party and attempt to resolve any differences by
stipulation;

21 (b) In the event that the Parties cannot agree as to the character of the
22 information challenged, any Party challenging the confidentiality
shall do so by appropriate pleading. This pleading shall:

23 (1) Designate the document, transcript or other material
24 challenged in a manner that will specifically isolate the
25 challenged material from other material claimed as
26 confidential; and

- 1 (2) State with specificity the grounds upon which the documents,
2 transcript or other material are deemed to be non-confidential
3 by the challenging Party.
- 4 (c) A ruling on the confidentiality of the challenged information,
5 document, data or study shall be made by an Administrative Law
6 Judge after proceedings in camera, which shall be conducted under
7 circumstances such that only those persons duly authorized
8 hereunder to have access to such confidential materials shall be
9 present. This hearing shall commence no earlier than five (5)
10 business days after service on the Disclosing Party of the pleading
11 required by subsection 5(b) above.
- 12 (d) The record of said in camera hearing shall be marked
13 "CONFIDENTIAL — SUBJECT TO PROTECTIVE ORDER IN
14 DOCKET NOS. T-01051B-10-0194, ET. AL." Court reporter notes
15 of such hearing shall be transcribed only upon agreement by the
16 Parties or Order of the Administrative Law Judge and in that event
17 shall be separately bound, segregated, sealed, and withheld from
18 inspection by any person not bound by the terms of this Protective
19 Order.
- 20 (e) In the event that the Administrative Law Judge should rule that any
21 information, document, data or study should be removed from the
22 restrictions imposed by this Protective Order, no Party shall disclose
23 such information, document, data or study or use it in the public
24 record for five (5) business days unless authorized by the Disclosing
25 Party to do so. The provisions of this subsection are intended to
26 enable the Disclosing Party to seek a stay or other relief from an
order removing the restriction of this Protective Order from
materials claimed by the Disclosing Party to be confidential.
6. (a) **Receipt into Evidence.** Provision is hereby made for receipt into
evidence in this proceeding materials claimed to be confidential in the following manner:
- (1) Prior to the use of or substantive reference to any
Confidential Information or Highly Confidential Information,
the Parties intending to use such Information shall make that
intention known to the Disclosing Party.
- (2) The Requesting Party and the Disclosing Party shall make a
good-faith effort to reach an agreement so that the
Confidential Information or Highly Confidential Information

1 can be used in a manner which will not reveal its confidential
2 or proprietary nature.

3 (3) If such efforts fail, the Disclosing Party shall separately
4 identify which portions, if any, of the documents to be offered
or referenced shall be placed in a sealed record.

5 (4) Only one (1) copy of the document designated by the
6 Disclosing Party to be placed in sealed record shall be made.

7 (5) The copy of the documents to be placed in the sealed record
8 shall be tendered by counsel for the Disclosing Party to the
Commission, and maintained in accordance with the terms of
this Protective Order.

9 (b) **Seal.** While in the custody of the Commission, materials containing
10 Confidential Information shall be marked "CONFIDENTIAL — SUBJECT TO
11 PROTECTIVE ORDER IN DOCKET NOS. T-01051B-10-0194, ET. AT" and Highly
12 Confidential Information shall be marked "HIGHLY CONFIDENTIAL — USE
13 RESTRICTED PER PROTECTIVE ORDER IN DOCKET NOS. T-01051B-10-0194,
14 ET. AL" and shall not be examined by any person except under the conditions set forth in
15 this Protective Order.

16 (c) **In Camera Hearing.** Any Confidential Information or Highly
17 Confidential Information that must be orally disclosed to be placed in the sealed record in
18 this proceeding shall be offered in an in camera hearing, attended only by persons
19 authorized to have access to the information under this Protective Order. Similarly, any
20 cross-examination on or substantive reference to Confidential Information or Highly
21 Confidential Information (or that portion of the record containing Confidential
22 Information or Highly Confidential Information or references thereto) shall be received in
23 an in camera hearing, and shall be marked and treated as provided herein.

24 (d) **Access to Record.** Access to sealed testimony, records and
25 information shall be limited to the Administrative Law Judge, Commissioners, and their
26 respective staffs, and persons who are entitled to review Confidential Information or

1 Highly Confidential Information pursuant to subsections 1(c) and 3(d) above and have
2 signed Exhibit "A" or "B" forms, unless such information is released from the restrictions
3 of this Protective Order either through agreement of the Parties or after notice to the
4 Parties and hearing, pursuant to the ruling of an Administrative Law Judge, the order of
5 the Commission and/or final order of a court having final jurisdiction.

6 (e) **Appeal/Subsequent Proceedings.** Sealed portions of the record in
7 this proceeding may be forwarded to any court of competent jurisdiction for purposes of
8 an appeal but under seal as designated herein for the information and use of the court or
9 the Federal Communications Commission. If a portion of the record is forwarded to a
10 court, the Disclosing Party shall be notified which portion of the sealed record has been
11 designated by the appealing Party as necessary to the record on appeal.

12 (f) **Judicial Proceedings Related to Non-Party's Request for**
13 **Disclosure.** Where the Commission, or any Receiving Party determines that disclosure is
14 not appropriate, the Disclosing Party as the real party in interest shall join as a co-
15 defendant in any judicial action brought against the Commission and/or Commissioners
16 by the Party seeking disclosure of the information, unless the Disclosing Party is already
17 specifically named in the action. Disclosing Party also agrees to indemnify and hold the
18 Commission harmless from any assessment of expenses, attorneys' fees, or damages
19 resulting from the Commission's denial of access to the information found to be non-
20 confidential.

21 In the event that the Commission becomes legally compelled (by deposition,
22 interrogatory, request for documents, subpoena, civil investigative demand, or similar
23 process) to disclose any of the Confidential Information, the Commission shall provide
24 Disclosing Party with prompt written notice of such requirement so that Disclosing Party
25 may seek an appropriate remedy and/or waive compliance.

26 (g) **Return.** Unless otherwise ordered, Confidential Information and

1 Highly Confidential Information, including transcripts of any depositions to which a
2 claim of confidentiality is made, shall remain under seal, shall continue to be subject to
3 the protective requirements of this Protective Order, and shall, at the Disclosing Party's
4 discretion, be returned to counsel for the Disclosing Party, or destroyed by the Receiving
5 Party, within thirty (30) days after final settlement or conclusion of these proceedings. If
6 the Disclosing Party elects to have Confidential Information or Highly Confidential
7 Information destroyed rather than returned, counsel for the Receiving Party shall verify in
8 writing that the material has in fact been destroyed.

9 7. **Use in Pleadings.** Where references to Confidential Information or Highly
10 Confidential Information in the sealed record or with the Disclosing Party is required in
11 pleadings, briefs, arguments or motions (except as provided in Section 5), it shall be by
12 citation of title or exhibit number or some other description that will not disclose the
13 substantive Confidential Information or Highly Confidential Information contained
14 therein. Any use of or substantive references to Confidential Information or Highly
15 Confidential Information shall be placed in a separate section of the pleading or brief and
16 submitted to the Administrative Law Judge or the Commission under seal. This sealed
17 section shall be served only on counsel of record and Parties of record who have signed
18 the attached "Exhibit A – Confidential Information Agreement" or "Exhibit B – Highly
19 Confidential Information Agreement." All of the restrictions afforded by this Protective
20 Order apply to materials prepared and distributed under this Section.

21 8. **Summary of Record.** If deemed necessary by the Commission, the
22 Disclosing Party shall prepare a written summary of the Confidential Information or
23 Highly Confidential Information referred to in the Protective Order to be placed on the
24 public record.

25 9. **Breach of Agreement.** A Disclosing Party, in any legal action or
26 complaint that it files in any court alleging breach of this Protective Order shall, at the

1 written request of the Commission, name the Arizona Corporation Commission as a
2 Defendant therein.

3 **10. Non-Termination.** The provisions of this Protective Order shall not
4 terminate at the conclusion of this proceeding.

5 **11. Effective Date.** The effective date of this Protective Order shall be June
6 ____, 2010.

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EXHIBIT A

CONFIDENTIAL INFORMATION NONDISCLOSURE AGREEMENT

I have read the foregoing Protective Order dated June __, 2010, in Docket Nos. T-01051B-10-0194, T-02811B-10-0194, T-04190A-10-0194, T-20443A-10-0194, T-03555A-10-0194 and T-03902A-10-0194 and agree to be bound by the terms and conditions of the Protective Order.

Name

Employer

Job title and Job Description

Business Address

Party

Signature

Date

Role in Proceeding

1 EXHIBIT B

2 **HIGHLY CONFIDENTIAL INFORMATION NONDISCLOSURE AGREEMENT**
3 Docket Nos. T-01051B-10-0194, T-02811B-10-0194, T-04190A-10-0194, T-20443A-10-
4 0194, T-03555A-10-0194 and T-03902A-10-0194.

5 I, _____, as

- 6 _____ Staff/RUCO Attorney
7 _____ Staff/RUCO Expert/Analyst
8 _____ Staff/RUCO Outside Expert/Consultant
9 _____ Intervenor Outside Counsel
_____ Intervenor Outside Expert/Consultant

10 in this proceeding for _____ (a Party to this
11 proceeding) hereby declare under penalty of perjury under the laws of the State of Arizona
12 that the following are true and correct:

- 13 a. I am not now involved, and will not for a period of two years involve myself in,
14 competitive decision making with respect to which the documents or information may
15 be relevant, by or on behalf of any company or business organization that competes,
16 or potentially competes, with the company or business organization from whom they
17 seek disclosure of highly confidential information with respect to the pricing,
marketing, and sales of telecommunications services in the State of Arizona; and
18 b. I have read and understand, and agree to be bound by, the terms of the Protective
19 Order dated June ____, 2010, in this proceeding, including Section 3 of the Protective
20 Order.

21 _____
22 Signature

Date

23 _____
24 City/State where this Agreement was signed

25 _____
26 Employer

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Position and Responsibilities

Permanent Address

The following portion is to be completed by the Disclosing Party and filed with the Commission within ten (10) days of receipt. Failure to do so will constitute a waiver and the above-named person will be deemed a person having access to Highly Confidential Information under the terms and conditions of the Protective Order.

_____ No objection.

_____ Objection. _____ (Disclosing Party) objects to the above-named person having access to Highly Confidential Information. The Disclosing Party shall file a motion with the Commission, supported by affidavit, setting forth the basis for objection and asking exclusion of the person from access to Highly Confidential Information.

Signature

Date

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